

# General conditions of purchase

## FISCHER FUEL CELL COMPRESSOR AG

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### 1. Exclusive Validity

- 1.1. These General Terms and Conditions of Purchase shall apply to all our purchases unless we have expressly agreed otherwise in writing.
- 1.2. General terms and conditions of delivery of suppliers shall apply to our purchases only to the extent that we have expressly accepted them in writing.

### 2. Form of Orders, Quantity

- 2.1. Our orders shall only be binding if they have been placed or confirmed by us in writing. The same shall also apply to supplements of any kind to the orders placed.
- 2.2. The order shall be confirmed by the supplier within 5 working days. The delivery must correspond exactly to the order in terms of quantity; an exception applies only in the case of order placement with provision of material.

### 3. Subcontracting

- 3.1. In the case of the delivery of drawing parts, the supplier shall be liable without limitation for the services procured from its subcontractor. The supplier must inform us in advance of any subcontracting. We have the right to reject the proposed subcontractor within 2 working days.
- 3.2. The Supplier undertakes to transfer the confidentiality obligations imposed by us to the same extent to its subcontractors.

### 4. Prices

- 4.1. The agreed prices are fixed prices and cannot be increased by surcharges of any kind.

### 5. Material Provision

- 5.1. Material, individual parts and components which we deliver for the execution of an order shall remain our property even after machining or processing. Unprocessed material, individual parts, components, and rejects shall be returned to us without being requested to do so.
- 5.2. Tools and gauges which we make available to the supplier or which are specially made for us remain our property and may not be made available to third parties for inspection or use without our written consent.

### 6. Delivery Time, Consequences of Delay and Contractual Penalty

- 6.1. The delivery date is met if the ordered goods have arrived at the destination within the agreed delivery period.
- 6.2. If the agreed delivery date is exceeded, we expressly reserve the right to assert all statutory claims.
- 6.3. The supplier may only invoke the absence of necessary documents or supplementary objects or individual parts to be supplied by us as justification for late delivery if it has requested these in good time or if, where deadlines have been agreed, it has sent a reminder without delay.
- 6.4. If the supplier is in delay, he shall owe a contractual penalty of 0.5% per week, but not more than a total of 5% of the total purchase price. It shall also be owed if the services are accepted with reservation. Payment of the contractual penalty does not release the supplier from the other contractual obligations.

### 7. Packaging, Transport, Documents, Benefit and Risk

- 7.1. Unless otherwise instructed, deliveries shall be shipped in accordance with Incoterms 2020 DDP (named place of destination) for foreign suppliers and Incoterms 2020 DAP (delivered named place) for domestic suppliers. Deliveries shall be shipped to the domicile of the respective FISCHER company (cf. item 12).
- 7.2. The supplier shall be liable for damage resulting from improper packaging.
- 7.3. In the case of products which must be stored in accordance with specific regulations, the supplier must provide us with the relevant regulations.
- 7.4. The supplier shall be liable for all costs and disadvantages resulting from non-compliance with our instructions.

### Documents

- 7.5. Each consignment shall be accompanied by a detailed delivery note with dispatch advice (inspection certificate if required) containing our references.
- 7.6. All correspondence must contain our order number and the shipping documents, as well as gross and net weight information.
- 7.7. If the required shipping documents and certificates for a delivery are not delivered in accordance with the regulations, the invoice amount shall not be due for payment until the missing items have been delivered.
- 7.8. Traceability shall be guaranteed by the supplier at all times.

### Transfer of Benefit and Risk

- 7.9. Benefit and risk are governed by Incoterms 2020.

### 8. Acceptance and Warranty

- 8.1. The goods are to be delivered inspected. We reserve the right to also inspect the delivery. If it corresponds to our order (complete fulfilment of the quality requirement), it shall be accepted, otherwise not. The supplier waives any objection to late notification of defects by FISCHER in accordance with Swiss Code of Obligations Art. 201 II or in accordance with comparable foreign law.
- 8.2. The supplier guarantees that the delivery item does not have any defects that impair its value or its suitability for the intended use, that it has the warranted characteristics and that it complies with the prescribed performance and specifications as well as the relevant laws, regulations and other provisions. Unless otherwise agreed, the warranty period shall be 12 months. The supplier undertakes to take out liability insurance for damage and consequential damage (in particular, product liability) with a guarantee sum of at least CHF 5 million and to provide us with a copy of the policy on request.
- 8.3. If it becomes apparent during the warranty period that the delivery or parts thereof do not fulfil the warranty pursuant to section 8.2, the supplier shall be obliged, at our discretion, to remedy the defects or have them remedied immediately on site at the supplier's expense or to supply us with a replacement free of defects.
- 8.4. In the event of differences regarding the quality values, the result of control samples or examinations carried out by independent, legally recognised testing institutes shall be decisive. The costs of these samples shall be borne by the party who is in the wrong.
- 8.5. The statutory warranty claims for cancellation, reduction and damages remain reserved.

### 9. Drawings, Test Certificates, Operating Instructions, Tools and Test Equipment

- 9.1. The approval of execution drawings by us does not release the supplier from the responsibility for his delivery. The definitive execution plans, test certificates, maintenance and operating instructions as well as spare parts lists for proper maintenance of the delivery shall be handed over to us in the required number and language together with the delivery at the latest.
- 9.2. The drawings, tools, models, etc. provided by us to the supplier shall remain our property and shall be returned to us without request after execution of the order.

### 10. Secrecy

- 10.1. The supplier shall treat the order and the related work, information or deliveries as confidential.
- 10.2. Information, drawings, models, samples, tools, etc. which we provide to the supplier for the preparation of the offer or the manufacture of a delivery item may not be used for any other purposes. We are entitled to all intangible rights. Upon request, all documents shall be returned to us without delay. If no delivery is made, the supplier shall return the documents to us without being requested to do so, likewise after termination of the contract. The obligation to maintain secrecy extends for 5 years beyond the duration of the supplier relationship.

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10.3. In cases of subcontracting, the supplier is obliged to contractually bind the subcontractor with regard to secrecy and to provide us with a copy thereof upon request. For subcontracting, section 3 shall apply in all other respects.

### **11. Terms of Payment**

11.1. Payments shall be made in accordance with the agreed conditions.

11.2. In the case of advance payments, the supplier shall provide an appropriate bank or insurance guarantee. The fees for this shall be borne by the supplier.

### **12. Place of Performance, Applicable Law and Place of Jurisdiction**

12.1. Unless otherwise agreed in writing, the place of performance shall be the location of the ordering FISCHER company.

12.2. The legal relationship shall be governed exclusively by Swiss substantive law.

12.3. The place of jurisdiction shall be at the location of the ordering FISCHER company.

12.4. FISCHER shall, however, also be entitled to take legal action against the supplier at the supplier's place of business.